



ALAN WILSON
ATTORNEY GENERAL

August 22, 2024

Captain Nick Gallam
Aiken County Sheriff's Office
420 Hampton Ave.
Aiken, SC 29801

Dear Captain Gallam:

We received your letter requesting an Attorney General's opinion regarding police jurisdiction. Your letter states the following:

Often narcotics are found on an offender's person during the custody exchange at the detention center. When the offender is arrested by a municipality within the municipality's jurisdiction, then transported outside of the municipality's jurisdiction to the detention center, would the municipality have jurisdiction to criminally charge the offender for the possession of the narcotics?

Law/Analysis

Initially, we note the question of whether a law enforcement officer has jurisdiction at a particular location involves a fact-specific inquiry that cannot be answered in an advisory opinion. *See e.g. Op. S.C. Att'y Gen.*, 2020 WL 4365488 (S.C.A.G. July 23, 2020) (noting "any question of whether a law enforcement officer has jurisdiction in a particular instance is a fact-specific question that a court must determine"). As we have stated in prior opinions, "[b]ecause this Office does not have the authority of a court or other fact-finding body, we are not able to adjudicate or investigate factual questions." *Op. S.C. Att'y Gen.*, 2006 WL 1207271 (S.C.A.G. April 4, 2006) (alteration in original) (quoting *Op. S.C. Att'y Gen.*, 1989 WL 406130 (April 3, 1989)). Further, it is this Office's longstanding policy "to defer to magistrates in their determinations of probable cause, and to local law enforcement officers and solicitors in deciding what charges to bring and which cases to prosecute." *Op. S.C. Att'y Gen.*, 2017 WL 5053042 (S.C.A.G. Oct. 24, 2017). However, we provide the following law in the hope it may be helpful to you.

Section 5-7-110 of the South Carolina Code (2004) provides for the creation of municipal police departments. S.C. Code Ann. § 5-7-110 ("Any municipality may appoint or elect as many police

officers, regular or special, as may be necessary for the proper law enforcement in such municipality and fix their salaries and prescribe their duties. Police officers shall be vested with all the powers and duties conferred by law upon constables, in addition to the special duties imposed upon them by the municipality.”). Generally, the jurisdiction of a municipal police officer is limited to property within the corporate limits of the municipality.

Any such police officers shall exercise their powers on all private and public property within the corporate limits of the municipality and on all property owned or controlled by the municipality wheresoever situated; provided, that the municipality may contract with any public utility, agency or with any private business to provide police protection beyond the corporate limits. Should the municipality provide police protection beyond its corporate limits by contract, the legal description of the area to be served shall be filed with the State Law Enforcement Division, the office of the county sheriff and the Department of Public Safety.

S.C. Code Ann. § 5-7-110.

In *State v. Alexander*¹, the Supreme Court of South Carolina explained:

“The jurisdiction of a municipal police officer, absent statutory authority, generally does not extend beyond the territorial limits of the municipality.” *State v. Harris*, 299 S.C. 157, 159, 382 S.E.2d 925, 926 (1989) (footnote and citation omitted). However, there are some exceptions to this general rule, including “[w]hen a law enforcement officer responds to a distress call or a request for assistance in an adjacent jurisdiction, the authority, rights, privileges, and immunities . . . applicable to an officer within the jurisdiction in which he is employed are extended to and include the adjacent jurisdiction.” S.C. Code Ann. § 17-13-45 (2014).

State v. Alexander, 424 S.C. 270, 275, 818 S.E.2d 455, 457-58 (2018). Further, our supreme court cautioned, “To be clear, jurisdictional boundaries mean something and, absent specific lawful authority, an officer has no authority to act in his official capacity beyond his jurisdiction.” *Id.* at 276, 818 S.E.2d at 458. For purposes of this opinion, we assume neither a statutory exception nor a mutual aid agreement extends the jurisdiction of a municipal police officer to include the county detention center. *See e.g.* S.C. Code Ann. § 17-13-40 (2014) (extending police jurisdiction when in pursuit of an offender); S.C. Code Ann. § 17-13-45 (2014) (extending police jurisdiction “[w]hen a law enforcement officer responds to a distress call or a request for assistance in an adjacent jurisdiction”); S.C. Code Ann. §§ 23-20-10 to -60 (Supp. 2023) (establishing the Law Enforcement Assistance and Support Act).

¹ 424 S.C. 270, 275, 818 S.E.2d 455, 457-58 (2018).

Although, generally, a municipal police officer's jurisdiction is limited to within the corporate limits of the municipality, a sheriff or sheriff's deputy's jurisdiction extends over the entirety of the county. This Office has consistently opined that a sheriff is the chief law enforcement officer of a county. *See e.g. Op. S.C. Att'y Gen.*, 2015 WL 3919079 (S.C.A.G. June 11, 2015); *Op. S.C. Att'y Gen.*, 2005 WL 774155 (S.C.A.G. March 1, 2005). "When duly qualified a deputy sheriff may perform any and all of the duties appertaining to the office of his principal." S.C. Code Ann. § 23-13-50 (2007). "A deputy . . . acts as his sheriff's agent under South Carolina law." *Heath v. Aiken Cnty.*, 295 S.C. 416, 418-19, 368 S.E.2d 904, 905 (1988). Moreover, section 24-5-10 of the South Carolina Code (2007), provides that the sheriff has control of the jail in his or her county. *See* S.C. Code Ann. § 24-5-10 ("The sheriff shall have custody of the jail² in his county and, if he appoint a jailer to keep it, the sheriff shall be liable for such jailer and the sheriff or jailer shall receive and safely keep in prison any person delivered or committed to either of them, according to law.")³. Assuming, as set forth in your letter, that a county detention center falls outside of the municipal police department's jurisdiction, we believe a court would hold the sheriff of the county and his or her deputies would have jurisdiction to bring charges against inmates being processed and housed in the detention center.

Conclusion

The question of whether a law enforcement officer has jurisdiction at a particular location involves a fact-specific inquiry that cannot be answered in an advisory opinion. *See e.g. Op. S.C. Att'y Gen.*, 2020 WL 4365488 (S.C.A.G. July 23, 2020) (noting "any question of whether a law enforcement officer has jurisdiction in a particular instance is a fact-specific question that a court must determine"). As we have stated in prior opinions, "[b]ecause this Office does not have the authority of a court or other fact-finding body, we are not able to adjudicate or investigate factual questions." *Op. S.C. Att'y Gen.*, 2006 WL 1207271 (S.C.A.G. April 4, 2006) (alteration in original) (quoting *Op. S.C. Att'y Gen.*, 1989 WL 406130 (April 3, 1989)). Further, it is this Office's longstanding policy "to defer to magistrates in their determinations of probable cause, and to local law enforcement officers and solicitors in deciding what charges to bring and which cases to prosecute." *Op. S.C. Att'y Gen.*, 2017 WL 5053042 (S.C.A.G. Oct. 24, 2017). However, assuming, as set forth in your letter, that a county detention center falls outside of the municipal police department's jurisdiction, we believe a court would likely find the sheriff of the county and his or her deputies would have jurisdiction to bring charges against inmates being processed and housed in the detention center. We note, this opinion is intended as a general discussion of the

² *See Roton v. Sparks*, 270 S.C. 637, 638-39, 244 S.E.2d 214, 215 (1978) (holding county detention centers are jails within the meaning of section 24-5-10).

³ We note that under section 24-5-12 of the South Carolina Code (2007), "the sheriff of any county may, upon approval of the governing body of the county, devolve all of his powers and duties relating to the custody of the county jail and the appointment of a facility manager on the governing body of the county; . . ." However, we do not believe this would affect a sheriff or sheriff's deputy's jurisdiction at the county jail or detention center.

Captain Nick Gallam

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law. It should not be read as an attempt to comment on any pending litigation or criminal proceeding.

Sincerely,



Elizabeth McCann
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General